

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

**[PROPOSED] ORDER AND STIPULATION REGARDING SCOPE OF
PROFIT WITHDRAWAL PROCEEDING**

Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), by and through his counsel, and Participating Claimants, as that term is defined in paragraph 5 of the Order Establishing Schedule For Limited Discovery and Briefing on Profit Withdrawal Issue entered on June 25, 2015, ECF No. 10266, as amended by the Order Amending Schedule of Litigation of Profit Withdrawal Issue entered on April 5, 2016, ECF No. 13038, and the Stipulation and Order on Schedule for Litigation of and Evidentiary Hearing on Profit Withdrawal Issue entered on July 12, 2016, ECF No. 13619, by and through their undersigned counsel, hereby stipulate and agree as follows:

1. On June 15, 2016, Bernard L. Madoff was deposed by Helen Davis Chaitman, counsel to Participating Claimants in the profit withdrawal proceeding. Mr. Madoff testified, *inter alia*, that his Ponzi scheme did not start until 1992.

2. On June 20, 2016, the Trustee served on Participating Claimants the expert report of Bruce G. Dubinsky, dated August 20, 2013, which addresses the Trustee's proof of the Ponzi scheme, BLMIS's insolvency, and other issues as set forth in the report.

3. Paragraph 9 of the Stipulation and Order on Schedule for Litigation of and Evidentiary Hearing on Profit Withdrawal Issue, ECF No. 13619, provides that the profit withdrawal proceeding encompasses litigation of the profit withdrawal issue only and that any other issues must be addressed separately. The prior scheduling orders, ECF Nos. 10266 and 13038, contained the same limitation.

4. In view of this limitation, any issues relating to the start date of the Ponzi scheme are outside the scope of the profit withdrawal proceeding and will not be litigated as part of the profit withdrawal proceeding in pre-hearing briefing or at the oral argument/evidentiary hearing.

5. Participating Claimants stipulate that they will not raise any issues relating to the start date of the Ponzi scheme in the profit withdrawal proceeding.

6. The Trustee stipulates that he will not call Bruce Dubinsky as a witness at the evidentiary hearing or otherwise rely upon the report of Bruce Dubinsky served on June 20, 2016.

7. Any issues relating to the start date of the Ponzi scheme must be litigated separately.

/s/ Seanna R. Brown

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*Attorney for Aaron Blecker and Adele
Fox*

SO ORDERED.

Dated: _____, 2016
New York, New York

**HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE**